

AMENDED IN SENATE AUGUST 15, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY MAY 25, 2006

AMENDED IN ASSEMBLY APRIL 18, 2006

AMENDED IN ASSEMBLY MARCH 28, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2253**

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**Introduced by Assembly Member Hancock**

February 22, 2006

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An act to add Section 23112.7 to the Vehicle Code, relating to vehicles.

### **LEGISLATIVE COUNSEL’S DIGEST**

AB 2253, as amended, Hancock. Vehicles: illegal dumping.

Existing law prohibits the dumping of various matters upon the highways. Existing law makes it an infraction for a person to dump or cause to be dumped waste matter in or upon specified public or private property and a misdemeanor for a person to dump or cause to be dumped a commercial quantity of waste matter in or upon specified public or private property. Existing law makes it either a misdemeanor or felony for a person to knowingly cause the dumping of hazardous substance on specified property.

This bill would authorize a court to impound a vehicle used in the illegal dumping of waste matter, as defined, or harmful waste matter, as defined, for a time period of up to 6 months, upon the misdemeanor or felony conviction of a person for the illegal dumping of waste

matter or harmful waste matter, if the person is the registered owner of the vehicle or registered owner's agent, and has one or more prior convictions, for illegally dumping waste matter or harmful waste matter, that are not infractions. The bill would make this impoundment procedure inapplicable, if there is a community property interest in the vehicle that is owned by a person other than the defendant under specified circumstances.

The bill would also authorize the court in a criminal action against a person, who is charged with a misdemeanor or felony violation of illegally dumping harmful waste matter on the motion of the prosecutor or county counsel, to declare a vehicle used in the commission of the violation, upon conviction, to be a nuisance and to order it sold, if the person has 2 or more prior convictions that are not infractions, for illegally dumping waste matter, and the person is the registered owner or the registered owner's agent or employee. The bill would require the legal and registered owners be provided with a specified notice regarding the sale of the vehicle. The bill would specify the distribution of the proceeds from the sale of the vehicle. The bill would prohibit the sale of the vehicle under specified circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23112.7 is added to the Vehicle Code,  
2 to read:  
3 23112.7. (a) (1) A motor vehicle used for illegal dumping of  
4 waste matter on public or private property is subject to  
5 impoundment pursuant to subdivision (c).  
6 (2) A motor vehicle used for illegal dumping of harmful waste  
7 matter on public or private property is subject to impoundment  
8 and civil forfeiture pursuant to subdivision (d).  
9 (b) For the purposes of this section, the following terms have  
10 the following meanings:  
11 (1) "Illegal dumping" means the willful or intentional  
12 depositing, dropping, dumping, placing, or throwing of any waste  
13 matter onto public or private property that is not expressly  
14 designated for the purpose of disposal of waste matter. "Illegal  
15 dumping" does not include the discarding of small quantities of

1 waste matter related to consumer goods and that are reasonably  
2 understood to be ordinarily carried on or about the body of a  
3 living person, including, but not limited to, beverage containers  
4 and closures, packaging, wrappers, wastepaper, newspaper,  
5 magazines, or other similar waste matter that escapes or is  
6 allowed to escape from a container, receptacle, or package.

7 (2) “Waste matter” means any form of tangible matter  
8 described by any of the following:

9 (A) All forms of garbage, refuse, rubbish, recyclable materials,  
10 and solid waste.

11 (B) Dirt, soil, rock, decomposed rock, gravel, sand, or other  
12 aggregate material dumped or deposited as refuse.

13 (C) Abandoned or discarded furniture; or commercial,  
14 industrial, or agricultural machinery, apparatus, structure, or  
15 other container; or a piece, portion, or part of these items.

16 (D) All forms of liquid waste not otherwise defined in or  
17 deemed to fall within the purview of Section 25117 of the Health  
18 and Safety Code, including, but not limited to, water-based or  
19 oil-based paints, chemical solutions, water contaminated with  
20 any substance rendering it unusable for irrigation or construction,  
21 oils, fuels, and other petroleum distillates or byproducts.

22 (E) Any form of biological waste not otherwise designated by  
23 law as hazardous waste, including, but not limited to, body parts,  
24 carcasses, and any associated container, enclosure, or wrapping  
25 material used to dispose these matters.

26 (F) A physical substance used as an ingredient in any process,  
27 now known or hereafter developed or devised, to manufacture a  
28 controlled substance specified in Section 11054, 11055, 11056,  
29 11057, or 11058 of the Health and Safety Code, or that is a  
30 byproduct or result of the manufacturing process of the  
31 controlled substance.

32 (3) “Harmful waste matter” is a hazardous substance as  
33 defined in Section 374.8 of the Penal Code; a hazardous waste as  
34 defined in Section 25117 of the Health and Safety Code; waste  
35 that, pursuant to Division 30 (commencing with Section 40000)  
36 of the Public Resources Code, cannot be disposed in a municipal  
37 solid waste landfill without special handling, processing, or  
38 treatment; or waste matter in excess of one cubic yard.

39 (c) (1) Whenever a person, who has one or more prior  
40 convictions of Section 374.3 or 374.8 of the Penal Code that are

1 not infractions, is convicted of a misdemeanor violation of  
2 Section 374.3 of the Penal Code, or of a violation of Section  
3 374.8 of the Penal Code, for illegally dumping waste matter or  
4 harmful waste matter that is committed while driving a motor  
5 vehicle of which he or she is the registered owner of the vehicle,  
6 or is the registered owner's agent or employee, the court at the  
7 time of sentencing may order the motor vehicle impounded for a  
8 period of not more than six months.

9 (2) In determining the impoundment period imposed pursuant  
10 to paragraph (1), the court shall consider both of the following  
11 factors:

12 (A) The size and nature of the waste matter dumped.

13 (B) Whether the dumping occurred for a business purpose.

14 (3) The cost of keeping the vehicle is a lien on the vehicle  
15 pursuant to Chapter 6.5 (commencing with Section 3067) of Title  
16 14 of Part 4 of Division 3 of the Civil Code.

17 (4) Notwithstanding paragraph (1), a vehicle impounded  
18 pursuant to this subdivision shall be released to the legal owner  
19 or his or her agent pursuant to subdivision (b) of Section 23592.

20 (5) The impounding agency shall not be liable to the registered  
21 owner for the release of the vehicle to the legal owner or his or  
22 her agent when made in compliance with paragraph (4).

23 (6) This subdivision does not apply if there is a community  
24 property interest in the vehicle that is owned by a person other  
25 than the defendant and the vehicle is the only vehicle available to  
26 the defendant's immediate family that may be operated on the  
27 highway with a class-3 or class-4 A, class B, or class C driver's  
28 license.

29 (d) (1) Notwithstanding Section 86 of the Code of Civil  
30 Procedure and any other provision of law otherwise prescribing  
31 the jurisdiction of the court based upon the value of the property  
32 involved, whenever a person, who has two or more prior  
33 convictions of Section 374.3 or 374.8 of the Penal Code that are  
34 not infractions, is charged with a misdemeanor violation of  
35 Section 374.3 of the Penal Code, or of a violation of Section  
36 374.8 of the Penal Code, for illegally dumping harmful waste  
37 matter, the court with jurisdiction over the offense may, upon a  
38 motion of the prosecutor or the county counsel in a criminal  
39 action, declare a motor vehicle if used by the defendant in the  
40 commission of the violation, to be a nuisance, and upon

1 conviction order the vehicle sold pursuant to Section 23596, if  
2 the person is the registered owner of the vehicle or the registered  
3 owner's employee or agent.

4 (2) The proceeds of the sale of the vehicle pursuant to this  
5 subdivision shall be distributed and used in decreasing order of  
6 priority, as follows:

7 (A) To satisfy all costs of the sale, including costs incurred  
8 with respect to the taking and keeping of the vehicle pending  
9 sale.

10 (B) To the legal owner in an amount to satisfy the  
11 indebtedness owed to the legal owner remaining as of the date of  
12 the sale, including accrued interest or finance charges and  
13 delinquency charges.

14 (C) To recover the costs made, incurred, or associated with the  
15 enforcement of this section, the abatement of waste matter, and  
16 the deterrence of illegal dumping.

17 (3) A vehicle shall not be sold pursuant to this subdivision in  
18 either of the following circumstances:

19 (A) The vehicle is owned by the employer or principal of the  
20 defendant and the use of the vehicle was made without the  
21 employer's or principal's knowledge and consent, and did not  
22 provide a direct benefit to the employer's or principal's business.

23 (B) There is a community property interest in the vehicle that  
24 is owned by a person other than the defendant and the vehicle is  
25 the only vehicle available to the defendant's immediate family  
26 that may be operated on the highway with a class ~~3 or class 4~~ A,  
27 *class B, or class C* driver's license.